



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

R. Mark Morris, Treasurer
Newberry for Congress
2139 East Primrose
Suite E
Springfield, MO 65804

MAR 23 2006

Re: MUR 5629
Newberry for Congress
R. Mark Morris, in his official capacity
as treasurer

Dear Mr. Morris:

On December 23, 2004, the Federal Election Commission notified Newberry for Congress ("Committee") and you, as treasurer, of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information provided by you, the Commission, on March 7, 2006, found that there is reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 441d, a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the Office of the General Counsel within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

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Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Kamau Philbert, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Enclosures
Designation of Counsel Form
Factual and Legal Analysis

cc: Jim Newberry
2139 East Primrose
Suite E
Springfield, MO 65804

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Newberry for Congress and R. Mark Morris,
in his official capacity as treasurer

MUR: 5629

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by the National Republican Congressional Committee. *See* 2 U.S.C. § 437g(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended by the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002), ("the Act"), requires that whenever a candidate or an authorized political committee of a candidate makes a disbursement for the purpose of financing any communication through any broadcasting station, or any other type of general public political advertising, such communication shall clearly state that the authorized political committee paid for the communication. 2 U.S.C. § 441d(a)(1); 11 C.F.R. § 110.11(b)(1). The Act also includes a "stand by your ad" provision, which requires that television communications paid for or authorized by a candidate's principal campaign committee include, *inter alia*, a statement by the candidate that identifies the candidate and states that the candidate has approved the communication. 2 U.S.C. § 441d(d)(1); 11 C.F.R. § 110.11(c)(3). The statement must be conveyed by either an unobscured, full-screen view of the candidate making the statement, or the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate. 2 U.S.C. § 441d(d)(1)(B)(i); 11 C.F.R. § 110.11(c)(3)(ii). The statement must also appear in writing at the end of the television communication in a clearly readable manner with a reasonable degree of color contrast between

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1 the background and the printed statement, for a period of at least four seconds. 2 U.S.C.

2 § 441d(d)(1)(B)(ii); 11 C.F.R. § 110.11(c)(3)(iii).

3 Jim Newberry's principal campaign committee, Newberry for Congress, and its treasurer,
4 R. Mark Morris, ran five television advertisements featuring Jim Newberry, a congressional
5 candidate in Missouri's Seventh Congressional District in 2004, that did not comply with
6 2 U.S.C. § 441d. Scripts of the television advertisements, which ran during the week before the
7 November 2, 2004 general election, show that each of the five advertisements contains a
8 statement that the advertisement is paid for by Newberry for Congress. The scripts also indicate
9 that Jim Newberry appeared, or his photograph was shown, in the advertisements; Jim Newberry
10 identified himself and stated that he approved each message. However, there is no written
11 statement at the end of the advertisements that identifies Jim Newberry as the candidate and
12 states that he approved the communications.

13 The five television advertisements at issue did not include the requisite written candidate
14 statements. Therefore, there is reason to believe that Newberry for Congress and R. Mark
15 Morris, in his official capacity as treasurer, violated 2 U.S.C. § 441d.

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